



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2013-0212]

Environmental Issues Associated with New Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Interim staff guidance; issuance.

SUMMARY: The U.S Nuclear Regulatory Commission (NRC) staff is issuing its final Interim Staff Guidance (ISG) Combined License and Early Site Permit (COL/ESP) No. 026 (COL/ESP-ISG-026), "Environmental Issues Associated with New Reactors." The purpose of this ISG is to clarify the NRC guidance and application of NUREG-1555, "Standard Review Plans for Environmental Reviews for Nuclear Power Plants: Environmental Standard Review Plan," regarding the assessment of construction impacts, greenhouse gas and climate change, socioeconomics, environmental justice, need for power, alternatives, cumulative impacts, and cultural/historical resources as part of the preparation of environmental impact statements for early site permit (ESP) and combined license (COL) applications.

DATES: The effective date of this COL/ESP-ISG-026 is **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID **NRC-2013-0212** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0212**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3442; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**
You may obtain publicly-available documents online in the ADAMS Public Documents collection <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. For the convenience of the reader, the ADAMS accession numbers are provided in a table in the "Availability of Documents" section of this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- The agency posts its issued staff guidance in the agency external web page (<http://www.nrc.gov/reading-rm/doc-collections/isg>).

FOR FURTHER INFORMATION CONTACT: Tanya Hood, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone at 301-415-1387 or e-mail at Tanya.Hood@nrc.gov.

Availability of Documents.

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document Title	Proposed Revision ADAMS Accession Number	Redline ADAMS Accession Number
Interim Staff Guidance-026, Environmental Issues Associated with New Reactors	ML14092A402	ML13350A059
Attachment 1 – Staff Guidance for Greenhouse Gas and Climate Change Impacts	ML14100A157	ML13350A134
Attachment 2 – Staff Guidance for Socioeconomics and Environmental Justice	ML14100A535	ML13350A399
Attachment 3 – Staff Guidance for Cultural and Historical Resources	ML14100A025	ML13347B223
Attachment 4 – Staff Guidance for Cumulative Impacts	ML14100A454	ML13347B214
Attachment 5 – Staff Guidance for Need for Power	ML14100A461	ML13350A444
Attachment 6 – Staff Guidance for Alternatives	ML14100A471	ML13347B173

ADAMS Accession Number	Document Title
ML14049A011	Interim Staff Guidance 26-27 Comment Resolution Summary Table
ML13347B127	Interim Staff Guidance 26-27 Comment Resolution Detailed Table

The NRC staff issues COL/ESP-ISGs to facilitate timely implementation of current staff guidance and to facilitate activities associated with review of applications for ESPs, design certifications, and COLs by the Office of New Reactors. The NRC staff intends to incorporate the final approved COL/ESP-ISG-026 into the next revision of the Environmental Standard Review Plan and related guidance documents.

The NRC posts all final ISGs on the NRC's public Web page at <http://www.nrc.gov/reading-rm/doc-collections/isg/>, which is where the public may easily obtain access to COL/ESP-ISG-026.

BACKFITTING AND ISSUE FINALITY:

Issuance of this ISG does not constitute backfitting as defined in § 50.109 of Title 10 of the *Code of Federal Regulations* (10 CFR) (the Backfit Rule), or be regarded as backfitting under Commission and Executive Director for Operations guidance, and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. The NRC staff's position is based upon the following considerations.

1. *The ISG positions do not constitute backfitting, inasmuch as the ESRP is internal guidance to NRC staff*

The ISG provides interim guidance to the staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. *Backfitting and issue finality do not – with limited exceptions not applicable here – protect current or future applicants*

Applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52 – with certain exclusions discussed below – were intended to apply to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (e.g., an ESP) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The staff does not, at this time, intend to impose the positions represented in the ISG in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the ISG in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. *The NRC's consideration of environmental impacts to address the requirements of the National Environmental Policy Act of 1969 (NEPA) are outside the scope of matters subject to backfitting protection, and are not a violation of issue finality provisions*

The NRC's consideration of environmental impacts to address the requirements of the National Environmental Policy Act of 1969 (NEPA), and an applicant's submission of environmental information needed to support the NRC's consideration of environmental impacts under NEPA, do not fall within the scope of matters which constitute backfitting. Consideration of environmental impacts to address NEPA compliance falls within the scope of matters protected under issue finality provisions of an ESP and a COL application referencing an ESP. However, this protection applies only after an ESP is issued, or if a COL application references an ESP. The NRC staff does not intend to apply the guidance to already-issued ESPs or COL applications referencing an ESP. Therefore, issuance of this ISG does not constitute a violation or inconsistency of the issue finality provisions applicable to ESPs or COL applications referencing an ESP.

CONGRESSIONAL REVIEW ACT:

This ISG is a rule as defined in the Congressional Review Act (5 U.S.C 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 25TH day of August, 2014.

For the Nuclear Regulatory Commission.

Joseph Colaccino, Chief,
Policy Branch,
Division of Advanced Reactor and Rulemaking,
Office of New Reactors.

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